


**County of Loudoun**  
**Department of Planning**  
**MEMORANDUM**

**DATE:** November 21, 2008

**TO:** Loudoun County Planning Commission

**FROM:** Sophia S. Fisher, Planner 

**SUBJECT:** November 24, 2008 PC Worksession—SPEX 2008-0003  
Goose Creek North Schmitz Gas Station

**Background**

On October 16, 2008, the Planning Commission held a public hearing on this application; one person expressed concerns about the project but did not oppose it, and five people spoke in opposition to the project. In general, members of the public were concerned that the proposed automobile service station would cause environmental impacts such as air, light, and noise pollution; environmental contamination from runoff and potential spills; impacts to the community of widening Belmont Ridge Road; and whether there is sufficient demand to support an automobile service station.

The Planning Commission also raised questions about the demand for an automobile service station, the impacts of the project on the neighbors, construction plans for Belmont Ridge Road, whether there have been any previous applications for automobile service stations in the vicinity, and what kind of safety and emergency procedures will be in place in the event of a spill or underground tank rupture.

The Planning Commission voted 6-0-3 (Brodrick, Chaloux, Keeney absent) to send the application to the Committee of the Whole for further discussion.

On November 13, 2008, the Planning Commission discussed the questions that were raised during the public hearing, and requested further information on the following topics: Rezoning Concept Plan and Proffers; Car Wash Hours; DEQ Requirements; Oil/Water Separator Operation and Maintenance; Groundwater; Car Wash Effluent; and Stormwater Outfall. Copies of the Concept Development Plan and Proffers from ZMAP 2003-0008, Goose Creek Village, are attached to

this memo. The other questions are addressed in a response letter from the applicant, which is also attached.

The Planning Commission also requested two additional Conditions of Approval, one to control noise generated by the proposed use, and the other to prohibit the use of outdoor televisions. Those two conditions have been added to the updated conditions attached to this memo.

### **Outstanding Issues**

There are no outstanding staff issues.

### **Recommendation**

Staff recommends approval of this application subject to the Conditions of Approval dated November 21, 2008 and the attached Findings.

### **Motions**

1. I move that the Planning Commission forward SPEX 2008-0003, Goose Creek Village North Schmitz Gas Station, to the Board of Supervisors with a recommendation of approval, subject to the Conditions of Approval dated November 21, 2008 and with the attached Findings.
2. I move that the Planning Commission forward SPEX 2008-0003, Goose Creek Village North Schmitz Gas Station to the Committee of the Whole for further discussion.

OR

3. I move an alternate motion.

### **Attachments**

1. Conditions of Approval dated November 21, 2008.
2. Applicant response letter dated November 20, 2008.
3. Information from the Virginia Department of Environmental Quality underground storage tanks program.
4. Proffers from ZMAP 2003-0008, Goose Creek Village.
5. Concept Development Plan from ZMAP 2003-0008, Goose Creek Village.

**SPEX 2008-0003**  
**Goose Creek Village North Schmitz Gas**  
**Findings and Draft Conditions of Approval**

**FINDINGS (November 4, 2008)**

1. The automobile service station, as conditioned, is compatible with the policies of the Revised General Plan.
2. The proposed automobile service station and car wash are appropriate uses on the subject property as they are Service Area-Based Retail uses located within the retail component of a larger Business Community.
3. Adequate facilities have been provided to protect the groundwater from oil/gasoline contamination.
4. As conditioned, the automobile service station complies with the requirements of the Revised 1993 Zoning Ordinance.

**CONDITIONS OF APPROVAL (November 21, 2008)**

1. Substantial Conformance. This special exception is for an automobile service station. The property shall be developed in substantial conformance with the Special Exception Plat entitled "The Gas Station at Goose Creek Village North Retail Center," prepared by Urban, Ltd, dated November 11, 2007 and revised through November 3, 2008. The Approval of this application does not relieve the Applicant of complying with applicable provisions of any Zoning Ordinance, Codified Ordinance, or any other requirement.
2. Building Design. The materials, design and appearance of the proposed automobile service station and convenience store shall be in substantial conformance with the building illustrative prepared by Mulvanny G2 Architecture dated March 28, 2008 and revised through September 10, 2008. Minor adjustments shall be permitted in conjunction with the building plan review process to address final engineering and/or code compliance considerations.
3. Landscaping. The applicant shall provide landscaping as shown on sheet 6A of the Special Exception Plat. Planting materials will consist of a minimum of 75% native plant species and will be maintained in good health. Dead or diseased plant materials will be replaced in consultation with the County's Urban Forester.
4. Lighting. All lighting on the site shall comply with the requirements of the Revised 1993 Zoning Ordinance. In addition, the lighting will be designed in such a manner as to minimize the impacts on the nearby residential

uses. In the event that the business is not open 24 hours a day, lighting on the site shall be turned off one hour past the close of business and may be turned on one hour prior to opening. In addition, the following conditions shall apply:

- A. Any wall-mounted lights shall be shielded to permit only downward light. No pinpoint glare shall be permitted from any lights. Pinpoint glare is defined as glare created when the actual light source (i.e., bulb) is visible from adjacent public roadways or property lines.
  - B. The gas station canopy lighting shall be recessed into the ceiling of the canopy. This lighting shall be installed in a manner that does not allow drivers and passengers in cars passing the canopy on adjacent public roadways to see pinpoint glare, as defined in condition A, above. The lighting installed in the canopy shall not exceed 40 foot candles.
  - C. Parking lot and other site lighting fixtures shall be at a 90-degree angle.
  - D. Parking lot lights shall not exceed a maximum of 20 feet in height including any concrete bases.
  - E. Site lighting shall be designed and constructed with cut-off and fully shielded lighting fixtures so that the light will be directed inward and downward toward the interior of the property and away from adjacent properties.
  - F. All on-site lighting shall be white light.
5. Emergency spills. The applicant shall provide an oil-water separator or approved equal along with a gate valve to contain spills on site.
  6. Dumpster Enclosure. The dumpster enclosure shall be constructed of materials similar in type to the materials used for the automobile service station.
  7. Noise. Noise from the proposed automobile service station shall not exceed the standards set forth in Sections 5-1507(B)(1) and 5-1507(B)(2) of the Revised 1993 Zoning Ordinance.
  8. Televisions. No televisions or similar technology shall be permitted anywhere on or under the gas station canopy or the fuel pumps
  9. Fence. The applicant shall install a fence along the site's Belmont Ridge Road frontage of sufficient height to screen automobile headlights.
  10. Safety and Emergency Procedures. The applicant shall employ the following safety procedures:

- A. Loitering: In order to discourage loitering on the premises, the applicant shall post "No Loitering" signs on the premises and install exterior security cameras to enable staff to monitor the premises.
- B. Vapors: The applicant shall use nozzles which incorporate a vapor recovery system to mitigate any air pollution generated by the fueling stations.
- C. Spills: If any spills result from consumers fueling their vehicles, staff applies absorbent material to the spill (similar to kitty litter), which is swept into and stored in sealed drums. The material with the absorbed gasoline then is stored in the drums and later disposed of according to hazardous material disposal procedures by companies contracted to perform this work. For larger spills, absorbent booms are placed around the perimeter of the spill to contain it during the clean-up procedures. For spills large enough to present the possibility of draining off-site, the oil/water separator shown on Sheet 2A of the special exception plat will contain the spilled fuel on site and in the pipes and manhole structures until clean-up occurs. In the event of a spill of this magnitude, a professional "hazmat" team shall be called in to perform the clean-up and dispose of the waste.
- D. Tank Ruptures: The tanks placed underground shall have a double-wall design. The applicant also shall install a continuous leak detection monitoring system to provide for automatic leak detection and tank shutdown. This continuous leak detection monitoring system shall be equipped with an audible alarm to alert staff should a leak occur. A professional "hazmat" team shall be called in to perform the clean-up and waste disposal should an underground leak occur.

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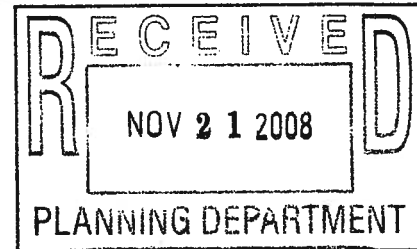
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November 20, 2008

**Via E-Mail and Hand Delivery**

Sophia S. Fisher, Planner  
Loudoun County Department of Planning  
1 Harrison Street, SE, Third Floor  
Leesburg, VA 20177-7000



Re: Schmitz/Goose Creek Village Gas Station Special Exception

Dear Sophia:

I am writing in response to your inquiries as a follow-up to the Planning Commission meeting held on November 13, 2008 as follows:

1. **Rezoning Concept Plan**: Twelve sets of the approved rezoning concept plan are attached to this letter.
2. **Car Wash Hours**: The applicant surveyed other facilities in the vicinity similar to the proposed use and found that none of the facilities are required to close at certain hours and are 24-hour operations. One facility voluntarily was closing the car wash at 9 p.m. due to equipment operation problems and not enough staff at that time to deal with equipment problems should they arise. The facilities surveyed are: Lowe's Island Sunoco, Cascades Shell, Countryside Sunoco, Lansdowne Shell, Broadlands Sunoco, Ashburn Farm Exxon and Ashburn Village Sunoco.
3. **DEQ Requirements**: An overview of the DEQ Underground Storage Tanks Program is attached. This information is from the DEQ website <http://www.deq.virginia.gov/tanks/usts.html>. In addition to meeting these requirements, the applicant will be installing double walled tanks and pipes with a continuous leak detection monitoring system to provide for automatic leak detection and tank shutdown with audible alarm and containment buckets installed underneath the fuel dispensers.
4. **Oil/Water Separator Operation and Maintenance**: The oil/water separator separates large particles and oil from the water. No chemicals are added to remove any dissolved particles from the water. The water flows from the site to a stormwater management where additional

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ATTACHMENT 2

November 20, 2008

Page 2

impurities are removed from the stormwater. The Filterra inlet, which is part of the stormwater management system, also is designed to separate large particles from stormwater as well as phosphorous removal (BMP). This link provides a demonstration of how the oil/water separator works: [http://www.baysaver.com/flash/demo\\_separator.html](http://www.baysaver.com/flash/demo_separator.html). This link demonstrates how the Filterra inlet operates: <http://www.filterra.com>. The applicant will be responsible for the upkeep and maintenance of the oil/water separator and will have a maintenance contract to provide regular servicing of the facility to assure proper functioning.

5. **Groundwater:** The geotechnical engineers for the Goose Creek Village project have no data on the groundwater table in this area as it is very deep below the rock and their borings have not encountered the very deep groundwater table. It appears that most of the groundwater in the area is from surface run-off, which means that the run-off from the gas station will flow through the Filterra inlet and the oil/water separator before being discharged in the stormwater management pond where it will soak into the ground and receive further filtering in the ground.

6. **Car Wash Effluent:** The car wash facility uses recycled water. However, treated water from the central water system is continually added to the car wash and effluent water is discharged into the wastewater system (as opposed to the stormwater system), which eventually is treated at the wastewater treatment plant. Sediment (dirt particles) settles at the bottom of the water storage tanks for the used water to be recycled. The applicant has a maintenance contract to periodically clean out the water storage tanks.

7. **Stormwater Outfall:** The outfall for the stormwater run-off from the special exception site is to a regional stormwater management pond located on the east side of Belmont Ridge Road between the Belmont Ridge and Ashburn Farm communities. This facility is located in a watershed that ultimately drains directly to the Potomac River and does not drain into the Goose Creek watershed before draining into the Potomac River.

Automobile service stations are extensively regulated by the state and federal government to prevent and minimize any potential environmental damage that could result from these facilities. Additionally, the applicant is committed to operating an environmentally safe service station with the economic incentive to do so; since he would have to bear the substantial costs of clean-up should a system failure occur. The applicant and consulting engineer will be attending the Planning Commission work session to answer any additional questions the Planning Commission may have.

Sincerely,

WALSH, COLUCCI, LUBELEY, EMRICH & WALSH, P.C.



Christine Gleckner, AICP  
Land Use Planner



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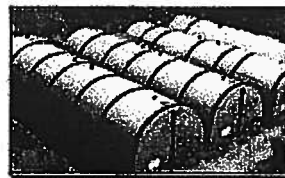
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## ***Underground Storage Tanks Program overview:***

The Virginia Department of Environmental Quality (DEQ) implements the UST program under Article 9 of State Water Control Law. Article 9, first enacted in 1987, enables DEQ to receive UST notifications, receive federal grant funds, develop regulations, conduct cleanups, and provide overall supervision of UST activities in the state. The technical requirements for USTs are included in Virginia regulation 9 VAC 25-580 et seq. entitled "Underground Storage Tanks: Technical Standards and Corrective Action Requirements". The financial responsibility requirements for USTs are found in Virginia Regulation 9 VAC 25-590 et seq. entitled "Virginia Petroleum Underground Storage Tanks Financial Responsibility Requirements Regulation". State housing law Section 36-99.6 provides for local code officials to permit and inspect UST installations, upgrades, repairs, and closures statewide in support of the program. In Virginia there are some 75,000 USTs (30,000 active) at 25,000 facilities with some 13,000 owners. VA-DEQ maintains the notification records for USTs and receives annual federal grant funding to support the program. In general, after December 22, 1998 all regulated USTs must have spill containment provisions at the fill pipe; overfill devices to alert the owner when overfills may occur; corrosion protection on both tank and product lines; release detection on both tank and product lines; and, financial responsibility.



## ***UST Pollution Prevention***

### **ATTACHMENT 3**

**Laws: Federal**

Except in a few instances, Federal regulations prior to 1984 did not address underground storage tanks (UST) systems. The Resource Conservation and Recovery Act (RCRA) of 1976 regulated only tanks containing hazardous wastes, not tanks storing petroleum or hazardous products. The Clean Water Act (CWA) of 1972 required owners of large underground tanks (greater than 42,000 gallons) to take certain measures to prevent corrosion and to test tanks periodically. These requirements, however, applied only to those tanks that were potentially direct sources of pollution into navigable waters. Because releases from USTs generally contaminated only groundwater, and usually affect surface water only indirectly, the CWA could not be used as a general basis for regulating most USTs. The Comprehensive Environmental Response, Compensation, and Liability Act (CERCLA) of 1980, commonly known as Superfund, authorized EPA to respond whenever a hazardous substance is released into the environment. Superfund, however, cannot be used to respond to releases from UST systems because petroleum is specifically excluded from the list of hazardous substances defined under CERCLA.

In 1984, Congress prepared amendments to RCRA that would address the problems of leaking UST systems. In October 1984, Congress passed a final version of the Hazardous and Solid Waste Amendments (HSWA) to RCRA. In November 1984, President Reagan signed the amendments into law. Title IV of the Amendments added Subtitle I (sections 9001 through 9010) which specifically provided for regulation of UST systems.

Subtitle I includes requirements for tank notification, interim prohibition, new tank standards, reporting and record-keeping requirements for existing tanks, corrective action, financial responsibility, compliance monitoring and enforcement, and approval of State programs. The law also requires EPA to develop a comprehensive program for the regulation of UST systems "as may be necessary to protect human health and the environment."

The Office of Underground Storage Tanks (OUST) was created in 1985 as part of EPA's Office of Solid Waste and Emergency Response (OSWER) to carry out the Congressional mandate to develop and implement a new regulatory program for UST systems. OUST has two divisions: The Policy and Standards Division and the Implementation Division. OUST is charged with developing regulations for UST systems in the areas of technical standards for tanks, financial responsibility, and state program approval.

In 1986, Congress passed the Superfund Amendments Reauthorization Act (SARA) which amended Subtitle I to provide Federal funds for corrective actions on petroleum releases from UST systems. This amendment established the Leaking Underground Storage Tank (LUST) Trust Fund, commonly known as the "LUST Trust Fund". On September 23, 1988, EPA published the final technical regulations for tanks. On October 26, 1988, EPA published the financial responsibility regulations,

indicating the minimum levels of insurance UST owners and operators need to ensure that they can take "corrective action" in response to any leaks that occur from their UST systems and compensate anyone who is harmed by a release. Corrective action includes assessing the release and the extent of damage or danger to human health and the environment, determining what action is needed to repair any damage and remove contaminants, and taking the necessary remedial action (e.g., free product recovery, bioventing).

## ***Laws: Virginia***

### ***The History of the Virginia UST Program***

In 1984, President Reagan signed into law Subtitle I of RCRA creating the federal Underground Storage Tank (UST) Program. On May 8, 1985 the federal Interim Prohibition became effective banning nationwide, the installation of corrodible tanks and piping until final federal regulations became effective (December 22, 1988). Since May 8, 1986 each existing UST, any new USTs, any changes to USTs and any closure of USTs must be reported to the DEQ-Water on the new official UST Notification forms. Thus far, the DEQ has received over 25,000 facility forms representing over 75,000 USTs.

In 1986 (and reauthorized in 1990), Congress amended RCRA to create the federal Leaking Underground Storage Tank Fund (LUST Fund) with \$1 billion from a 1/10 cent per gallon gasoline tax for the purpose of cleaning up petroleum UST leak sites nationwide. Thus far, Virginia has received over \$18 million of this money for cleanups. Many more sites are being prioritized for future cleanup actions. There have been over 11,000 leaking tank sites reported to DEQ to date.

Effective July 1, 1987, the Virginia General Assembly created Articles 9 & 10 of the Water Control Law (Sections 62.1-44.34:8-12) which gave the DEQ general supervision of USTs, set financial responsibility requirements, and established the Virginia Underground Petroleum Storage Tank Fund (State Cleanup Fund). The Virginia law initially went further than EPA by regulating as USTs all heating oil USTs with a capacity greater than 5,000 gallons, but this was rescinded July 1, 1996 by the General Assembly. The Virginia law requires that owners/operators notify the DEQ of all USTs taken out of use before January 1, 1974, yet still in the ground. Also effective as a State law change on July 1, 1987 (Sec. 36-99.6), the Department of Housing and Community Development, through the local building/fire inspectors, were given the task of permitting and inspecting the installations, upgrades, repairs, and closures of USTs. These actions are also referenced in the Virginia UST Technical Regulation.

On September 23, 1988 EPA published in the Federal Register the final federal UST Technical Regulations that took effect on December 22, 1988. Generally, these require new systems to have non-corrodible tanks and piping, overfill and spill prevention devices, and leak detection. USTs in use before that date were given 10 years (until 1998) to upgrade to the new UST standards for non-corrodible tanks and piping and overfill and spill prevention devices, but leak detection must have been initiated during

a five year period from 1989 to 1993 based on tank age. USTs installed prior to 1965 or of unknown age must have had leak detection installed during 1989; those installed from 1965-1969 during 1990; from 1970-1974 during 1991; from 1975-1979 during 1992; from 1980-1988 during 1993. Leak detection must be continued indefinitely on a monthly basis. Due to a greater incidence of pressurized piping leaks, all pressurized piping nationwide must have begun leak detection by December 22, 1990.

Virginia's UST Technical Regulation which became effective October 25, 1989 is entitled "UST; Technical Standards and Corrective Action Requirements" (9 VAC 25-580-10 et seq.). The Virginia regulation is very similar to the federal regulation, except it requires notifications from owners of all regulated USTs that remain in the ground.

EPA's final Financial Responsibility (FR) Regulation was published on October 26, 1988 and took effect January 24, 1989. It requires owners/operators of USTs containing petroleum to demonstrate evidence of financial responsibility in the amount of \$1 million per occurrence for petroleum marketers/\$500,000 for non-marketers to cover corrective action and third party liability costs for accidental petroleum releases from their USTs. You may do this using insurance or any of the other mechanisms permitted in the regulation. There was a 5 year phase-in of federal FR requirements based on the category of your business. Owners/operators of 13 or more USTs and non-marketers worth more than \$20 million who report financial information to the Securities and Exchange Commission or Dun & Bradstreet were required to demonstrate FR. Owners/operators with 1-12 USTs, all other non-marketers, local government entities and petroleum storage tank vendors were not required to demonstrate FR until December 31, 1993. State law changes effective July 1, 1989 and the State FR Regulation entitled "Petroleum UST Financial Responsibility Requirements" (9 VAC 25-590-10 et seq.) effective May 9, 1990 required owners/operators to demonstrate financial responsibility of \$50,000 for corrective action and \$150,000 for third party liability. State law was amended effective July 1, 1992 to require all owners/operators to demonstrate financial responsibility based on the total annual gallons pumped through all regulated petroleum USTs owned and operated by them in Virginia. The sliding scale financial responsibility requirement ranges from \$5,000 for corrective action and \$15,000 for third party claims (\$20,000 Annual Aggregate) to a maximum of \$50,000 for corrective action and \$150,000 for third party claims (\$200,000 Annual Aggregate). Owners/operators may then use the Fund to demonstrate FR between the State financial responsibility requirement and \$1 million to meet the federal requirement.

The federal regulations are the law of the land nationwide, and the DEQ and local building departments/fire officials implement them in Virginia for the EPA and under State law. There have been no substantive changes to the federal regulations to date. There have been numerous policy calls over the years to EPA and Virginia which have been resolved within the context of the existing regulations.

**Regulations:** DEQ & other agencies

## ***General UST Requirements:***

### **Release Detection**

All USTs were required to begin release detection by December 22, 1993 at the latest. Some of the monthly release detection options include: automatic tank gauging, ground water monitoring, vapor monitoring, interstitial monitoring, and statistical inventory reconciliation. Inventory control and tank tightness testing may be used only for up to 10 years after corrosion protection was initially applied to the tank. Manual tank gauging may be used for tanks up to 2,000 gallons.

## ***Upgrading Requirements***

UST system upgrading consists of adding corrosion protection, and installing devices to protect against spills and overfills. Without the protection provided by upgrading, your UST is more likely to leak, damage the environment, possibly open you to third-party lawsuits, and leave you with costly cleanups.

## ***Corrosion Protection***

Federal rules require corrosion protection for UST systems because unprotected steel USTs and piping corrode and release product through corrosion holes. Existing steel tanks must be upgraded to meet one of the following requirements according to a code of practice developed by a nationally recognized organization or independent testing laboratory.

### ***You had three options for upgrading existing steel USTs:***

1. Interior lining: The interior of a structurally sound tank may be lined with a thick layer of non-corrodible material. The lining material and application method must both comply with applicable industry codes. The lining used must also meet the same federal requirements as for repaired tanks (9 VAC 25-580-110). Tanks using only an interior lining for corrosion protection must pass an internal reinspection in 10 years and every 5 years after that to make sure that the lining (and tank itself) is sound. You must keep records of these inspection results.
2. Cathodic protection: Cathodic protection is one option for protecting an UST from corrosion. There are two types of systems for cathodic protection:
  - A. Sacrificial Anode, and
  - B. Impressed Current.

Sacrificial anodes can be attached to a coated steel UST for corrosion protection. Sacrificial anodes are pieces of metal more electrically active than the steel UST. Because these anodes are more active, the corrosive current will exit from them rather than the UST. Thus, the UST is protected while the attached anode is

"sacrificed." Depleted anodes must be replaced for continued corrosion protection of the UST.

An impressed current system uses a rectifier to convert alternating current to direct current. This current is sent through an insulated wire to the anodes, which are special metal bars buried in the soil near the UST. The current then flows through the soil to the UST system, and returns to the rectifier through an insulated wire attached to the UST. The UST system is protected because the current going to the UST system overcomes the corrosion-causing current normally flowing away from it.

Regulations require that the cathodic protection systems installed at UST sites be designed by a corrosion expert. The system must be tested by a qualified cathodic protection tester within 6 months of installation and at least every 3 years thereafter. You will need to keep the results of the last two tests to prove that the cathodic protection is working. In addition, you must inspect an impressed current system every 60 days to verify that the system is operating. Keep results of your last three 60-day inspections to prove that the impressed current system is operating properly.

The coating must be of a suitable dielectric material (i.e., a coating that will electrically isolate the UST from its environment and meets applicable industry codes). An asphaltic coating is NOT considered a suitable dielectric coating.

3. Internal lining combined with cathodic protection\*: Another option for upgrading existing tanks was to add both cathodic protection and interior lining. The advantages of this combined method are:

USTs receive greater corrosion protection, and  
The condition of the interior lining does not require periodic inspection.

These advantages can amount to significant cost savings over interior lining alone. You will, however, have to have the cathodic protection system periodically tested and inspected to ensure that it is working properly. You must keep records of these tests and inspections.

**\* NOTE:** Prior to adding cathodic protection, the integrity of the UST must have been ensured using one of the following methods:

the UST is internally inspected and assessed to ensure that the tank is structurally sound and free of corrosion or holes,

the UST has been installed for less than 10 years and uses monthly monitoring for releases,

the UST has been installed for less than 10 years and is assessed for corrosion holes by conducting two tightness tests the first occurs prior to adding cathodic protection and

the second occurs 3 to 6 months following the first operation of cathodic protection, and

**Alternative Integrity Assessment:** the UST is assessed for corrosion holes by a method that is determined by the implementing agency to prevent releases in a manner that is no less protective of human health and the environment than those listed immediately above. Upgrading bare steel piping is accomplished by adding cathodic protection.

**NOTE :** Damaged metal piping CANNOT be repaired and must be replaced.

The 1998 tank corrosion protection requirements can also be met by new tanks made of non-corrodible material (such as fiberglass) installed inside an existing steel tank. Such new tanks must meet a code of practice developed by a nationally-recognized association or independent testing laboratory.

## ***Spill Prevention***

Your USTs must have catchment basins to contain spills. New USTs must have catchment basins when they are installed—older tanks can have catchment basins retrofitted to them.

You and your fuel deliverer must follow industry standards for correct filling practices.

## ***Catchment Basins***

Catchment basins are also called "spill containment manholes" or "spill buckets." Basically, a catchment basin is a bucket sealed around the fill pipe. To protect against spills, the basin should be large enough to contain what may spill when the delivery hose is uncoupled from the fill pipe. Basins range in size from those capable of holding only a few gallons to those that are much larger—the larger the catchment basin, the more spill protection it provides.

You need a way to remove liquid from catchment basins. Manufacturers equip catchment basins with either a pump or drain to remove liquid. You should try to keep water out of catchment basins. Some catchment basins can collect enough water and sediment, along with spilled product, to make draining this mixture into the tank unwise. If this happens, you may pump out the catchment basin and dispose of the liquid properly. If the liquid contains fuel or chemicals, it could be considered a hazardous waste. Contact your state agency responsible for hazardous waste for information on testing and handling requirements.

## ***Correct Filling Practices***

Many releases at UST sites come from spills. Spills often occur at the fill pipe when the delivery truck's hose is disconnected. Although these spills are usually small, repeated small releases can cause big environmental problems. Human error causes most spills. These mistakes can be

avoided by following standard tank filling practices. For example, you must make sure there is room in the UST for the delivery, and the delivery driver must watch the delivery at all times. If you and the delivery driver follow standard practices, nearly all spills can be prevented. For this reason, federal UST regulations require that you follow standard filling practices.

If an UST never receives more than 25 gallons at a time, the UST does not have to meet the spill protection requirements. Many small used oil tanks fall into this category.

### ***Overfill Protection***

Your UST must have overfill protection. New USTs must have overfill protection devices when they are installed. The three main types of overfill protection devices are:

1. automatic shutoff devices,
2. overfill alarms, and
3. ball float valves.

You and your fuel deliverer must follow industry standards for correct filling practices.

Overfills usually release much larger volumes than spills. When a tank is overfilled, large volumes can be released at the fill pipe and through loose fittings on the top of the tank or a loose vent pipe. The tightness of these fittings normally would not be a problem if the tank were not filled beyond its capacity. You can solve overfill problems by:

- Making sure there is enough room in the tank for the delivery BEFORE the delivery is made;
- Watching the entire delivery to prevent overfilling or spilling; and
- Using overfill protection devices.

If an UST never receives more than 25 gallons at a time, the UST does not have to meet the overfill protection requirements. Many small used oil tanks fall into this category.

NOTE: If you have "pumped delivery" where fuel is delivered under pressure, you must make sure your overfill protection device works compatibly with pumped deliveries. Also, remember that overfill protection devices are effective only when combined with careful filling practices.

The various upgrading options are summarized in the following table:

### ***UST System Upgrading Requirements***

Equipment	Corrosion Protection Method
New Tanks	1. Coated and Cathodically Protected Steel 2. Fiberglass



3 Choices	3. Steel Clad with Fiberglass
Existing Tanks 4 Choices	1. Same Options as for New Tanks 2. Add Cathodic Protection System 3. Interior Lining 4. Interior Lining and Cathodic Protection
New Piping 3 Choices	1. Coated and Cathodically Protected Steel 2. Fiberglass 3. Another Approved Material
Existing Piping 2 Choices	1. Same Options as for New Piping 2. Cathodically Protected Steel
Equipment	Spill/Overfill Prevention Method
	Catchment basins
	-and-
All Tanks	Automatic Shutoff Devices -or
	Overfill Alarms -or
	Ball Float Valves

 [Back to Top](#)

[Start of Page](#) | 
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**Goose Creek Village  
Zoning Map Amendment Petition 2003-0008**

**PROFFER STATEMENT**

June 3, 2005

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**PREAMBLE**

Centex Homes, a Nevada General Partnership, as the Contract Purchaser, together with 3 Sisters, LLC, Leroy Eakin, III, Co-Trustee, and Roderick R. McKelvie, Co-Trustee, as the Owners of approximately 141 acres of land, more particularly described as a portion of Loudoun County Tax Map 78, Parcel 4, and MCPI # 153-17-7884 (hereinafter, the "Property"), hereby voluntarily proffer, pursuant to Section 15.2-2303 of the Code of Virginia (1950), as amended, and Section 6-1200 of the Revised 1993 Loudoun County Zoning Ordinance, as amended, that in the event the Property is rezoned by the Board of Supervisors of Loudoun County, Virginia (hereinafter, the "County") to the Planned Development-Industrial Park (PD-IP), Planned Development-Office Park (PD-OP), Planned Development – Commercial Center – Community Center (PD-CC-CC), and the R-16 and R-24 Townhouse and Multifamily residential zoning districts as shown on the Concept Development Plan (defined below), the development of the Property shall be in substantial conformance with the following terms and conditions. The Contract Purchaser and Owners, and their successors and assigns, shall hereinafter be referred to, collectively, as the "Applicant." These proffered conditions are the only conditions offered on this rezoning, provided that these proffers shall become effective only upon final approval of the Zoning Amendment application ZMAP 2003-0008, along with Special Exception 2004-0030 (SPEX 2004-0030) and the modifications requested with this zoning application.

**I. LAND USE:**

1. **Concept Development Plan.** The Property shall be developed in substantial conformance with the Concept Development Plan entitled, "Goose Creek Village Rezoning/Special Exception Application," Sheets 1, 4, 5, 6, and 12 dated May 22, 2003, revised through June 3, 2005, prepared by christopher consultants, ltd.

(hereinafter, the "CDP"), which is incorporated herein by reference as Exhibit A. The CDP shall control the general development layout and configuration of the Property. All office buildings located in the land bay on the north side of Sycolin Road and in the portion of the land bay on the south side of Sycolin Road along the Dulles Greenway, in the locations depicted on Sheet 5 of the CDP, shall be a minimum of three stories high.

2. **Affordable Dwelling Units.** Affordable dwelling units shall be constructed on the Property in accordance with the provisions of Article 7 of the Zoning Ordinance, as those provisions existed on the date of acceptance of ZMAP 2003-0008, and will constitute a minimum of 6.25% of the total number of dwelling units constructed within each of the three residential zoning districts on the Property. All record plats and site plans for the Property that include residential lots or dwelling units will include the required affordable dwelling unit information in table form and will indicate on each record plat or site plan that includes residential lots or dwelling units the locations of the required affordable dwelling units.
3. **Linkage of Residential and Commercial Elements.** In order to ensure that the Applicant's mixed use development on the Property remains fiscally positive at all times during build-out and achieves a qualitative appearance of a mixed use community, the Applicant shall not be permitted to obtain zoning permits for more than 300 residential dwelling units on the Property unless and until zoning permits have been issued for an office, retail, or office/retail commercial development on the Property comprising a minimum of 70,000 square feet of such uses in either the PD-OP or PD-CC-CC zoned portions of the Property, excluding any civic uses.

## II. OPEN SPACE AND RECREATION:

4. **Goose Creek Open Space.** The Applicant shall preserve a minimum of 30 acres

of open space along Goose Creek, which shall be preserved as follows:

- A. Virginia Outdoors Foundation Easement Area: This open space includes the 11.5 acres of land subject to the Deed of Open Space Easement executed between the Virginia Outdoors Foundation ("VOF"), Allan M. McKelvie and Helen N. McKelvie (the "Deed"). It shall remain undisturbed in its natural vegetative state, except for the installation of trails as noted in proffer 5 below and in the general locations shown on the CDP. The trails shall be constructed in accordance with the Deed, subject to VOF approval.
  
- B. Property Owners Association Open Space: The Property Owners Association ("POA"), to be established pursuant to proffers 21-24, below, shall own the portions of the open space area not included in the VOF open space easement. Notwithstanding the foregoing, the open space zoned PD-OP, or portions thereof, may be included in the lot for the adjacent office land bay and included in the ownership of that lot. The Applicant shall dedicate an open space/conservation easement to the County for the open space along Goose Creek not included in the VOF open space easement, whether it is owned by the POA or by the adjoining office land bay owner. The Applicant reserves the right to install a sewage pump station with associated accessory structures, fences and access drives, as well as trails, environmental management activities, and underground lines and utilities such as sewer and stormwater facilities and telephone and electric lines in the open space area located outside of the VOF easement. Further, within the open space area identified on Sheet 5 of the CDP as the "Preliminary Limits of Clearing and Grading Subject to Final Engineering," the Applicant may install stormwater management and BMP facilities with associated fences and access drives, a boardwalk-type trail providing access to and around the

stormwater management pond(s), and picnic tables and benches, if desired by the Applicant. If the Applicant installs any of these improvements within the open space area, it shall be done in a manner that minimizes the impact of such activities on the existing vegetation. The Applicant retains the right to dedicate additional easements that may be required by the County within the easement area.

5. **Dedication of Open Space Along Goose Creek.** The Applicant shall dedicate to the County, at no cost to the County, the approximately 11.5 acres of land along Goose Creek, depicted as the PD-IP zoned land on the CDP, and which is the land area subject to the existing Virginia Outdoors Foundation open space easement. This land shall be dedicated for open space/conservation/passive recreation purposes only, and the dedication shall specify that the land shall be subject to the Virginia Outdoors Foundation easement and maintained in a natural condition used for open space/conservation/passive recreation or park purposes only, consistent with the terms of the existing easement. The proposed deed will be submitted to the County for review and approval prior to recordation. Pedestrian access only, for the general public, shall be provided to the dedicated open space area via the trail system depicted on the CDP. The dedication of the approximately 11.5 acres shall be provided at any time upon written request of the County, but no later than the issuance of the zoning permit for the 300<sup>th</sup> dwelling unit for the Property.
6. **Natural Surface Trails.** The Applicant shall construct natural surface trails within the dedicated open space area along Goose Creek on the Property, to the extent consistent with the terms of the Deed, and within the open space area being retained by the POA adjacent to the dedicated open space area. The trails shall be constructed in substantial conformance with the locations shown on the CDP and shall be constructed or bonded for construction prior to the issuance of the Zoning Permit for the 300<sup>th</sup> dwelling unit on the Property. Motor vehicles, other than those required for maintenance of the trails, stormwater management facilities and

utilities, shall be prohibited from using the natural surface trails located in the open space area along the Goose Creek, as described in proffer 3 above and as depicted on the CDP. Signs shall be posted at each entry point to the trail announcing the prohibition of motor vehicles.

7. **Maintenance.** All common open space shown on the CDP shall be owned and maintained by the POA, to be established pursuant to the provisions in proffer 21 below and whose duties are specified in proffer 23 below.
8. **Active Recreation.** The Applicant shall provide a minimum of 63,000 square feet of active recreation area within the R-16 zoning district and a minimum of 23,400 square feet and 35,400 square feet, respectively, in the two R-24 zoning districts on the Property, as shown on the CDP. The active recreation area shall include, at a minimum, one community clubhouse and swimming pool facility and two tot lots. The community swimming pool shall be located adjacent to the proposed clubhouse in the R-16 zoning district in the location shown on the CDP and shall have a minimum of 4,000 square feet of water surface area in size. The community swimming pool and clubhouse shall be constructed or bonded for construction prior to the issuance of the 300<sup>th</sup> residential zoning permit for the Property. The first tot lot shall be constructed or bonded for construction prior to the issuance of the 150<sup>th</sup> residential zoning permit for the Property, and the second tot lot shall be constructed or bonded for construction prior to the issuance of the 450<sup>th</sup> residential zoning permit for the Property.

## II. WATER AND SEWER

9. **Extensions.** The Property will be served by public water and sewer systems. All extensions of existing water and sanitary lines necessary to serve the Property, and all connections to such existing lines, shall be provided at no expense to Loudoun County or the Loudoun County Sanitation Authority ("LCSA"). Such

water and sanitary sewer lines shall be extended in accordance with LCSA standards.

10. **Water Supply Testing.** The Applicant shall test the water supply for adequacy of pressure and volume for fixed fire protection systems, where installed, and for manual firefighting purposes at the time of first site plan review.
11. **Abandonment.** All septic systems and wells that currently exist on the Property shall be abandoned upon issuance of Health Department permits prior to the approval of the first record plat on the Property. Notwithstanding the foregoing sentence, the Applicant reserves the right to retain usage of existing wells for the purposes that involve the use of non-potable water, such as watering, in accordance with Health Department requirements.

### III. CAPITAL FACILITIES

12. **Contribution.** The Applicant shall provide, prior to issuance of the zoning permit for each single-family attached residential unit, a one-time cash contribution in the amount of \$19,742 per unit. The Applicant shall provide, upon issuance of the zoning permit for each multi-family residential unit, a one-time cash contribution in the amount of \$10,555 per unit. These contributions shall escalate on an annual basis based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (CPI), calculated from a base year of January 2005.

### IV. FIRE AND RESCUE SERVICES

13. **Contributions.** Prior to issuance of the zoning permit for each residential unit, the Applicant shall provide the County with a one-time contribution of \$120.00 per residential unit for distribution to the Fire and Rescue companies providing primary service to the Property. At the time of issuance of each zoning permit for

non-residential development on the Property, the Applicant shall make a one-time contribution of \$0.10 per gross square foot of floor area covered by such zoning permit. These contributions shall be divided equally between the primary servicing Fire and Rescue companies. Such contributions shall escalate on an annual basis in accord with the Consumer Price Index and with a base year of 1988.

14. **Cessation of Contributions.** The obligation to make donations set forth in proffer 13, above, shall continue so long as volunteer fire and rescue companies serve the Property. In the event the Property shall cease to be served by volunteer fire and rescue companies, the obligations to make such donations shall be terminated. In the event only one of these services ceases to be provided by a volunteer company, the proffered contribution shall be reduced by half and provided only to the remaining volunteer company.
15. **Emergency Vehicle Access.** The Applicant shall provide, no later than the framing stage of construction, all weather, gravel compacted access for emergency vehicles, acceptable to the Fire Marshal, to all portions of the Property under construction.

## V. TRANSPORTATION

16. **On-Site Roads.** All private roads constructed on the Property, as shown on the CDP, will be constructed in accordance with the Land Subdivision and Development Ordinance (LSDO) and Facilities Standards Manual (FSM). All public roads constructed on the Property, as stated on Sheet 6 of the CDP, will be constructed in accordance with the Virginia Department of Transportation (VDOT) standards. All entrances onto the public roads will be constructed in accordance with VDOT standards. There shall be no more than one right-turn in/right-turn out only entrance from Belmont Ridge Road into the land bay zoned PD-CC-CC, as shown on the CDP. Site access shall be as shown on the CDP.



**17. Sycolin Road (Route 643)**

A. **Right-of-Way Dedication.** The Applicant shall dedicate to the County as public right-of-way and at no cost to the County or to VDOT, the land along the Property's frontage on Sycolin Road, in conformance with the Revised Countywide Transportation Plan ("CTP"), in amounts sufficient to provide a maximum Sycolin Road right-of-way 90 feet wide, where required by VDOT. Additional right-of-way will be provided for left turn lanes, where required by VDOT. This right-of-way dedication shall be based on construction plans approved by VDOT and Loudoun County for the ultimate section of Sycolin Road. In addition to the dedication, the Applicant will grant all necessary easements relating to road construction and road maintenance for utilities, drainage and grading. These dedications shall be provided at any time upon written request by Loudoun County, or no later than concurrent with the approval of the first record plat or first site plan, whichever occurs first, for any portion of the Property abutting Route 643.

B. **Improvements.**

1.) **Roadway Improvements, Traffic Signals, On-Street Parking and Traffic Calming Measures.** The following improvements shall be made to Sycolin Road between Route 659 and the Dulles Greenway right-of-way, subject to VDOT approval:

a. **Road Improvements.**

(1) **Phase I Improvements.** The Applicant shall construct an eleven-foot wide travel lane in each direction from Route 659 (Belmont Ridge Road) to the Dulles Greenway bridge, as depicted

on Sheet 6 of the CDP. The two travel lanes shall constitute the outer two lanes of the ultimate four-lane divided roadway section. The Applicant shall construct a 38-foot wide median island with landscaping and left turn lanes at the two median crossovers on Sycolin Road, subject to VDOT approval and as shown on Sheet 6 of the CDP. In addition, the Applicant shall construct an eight-foot wide parking lane in both directions between Belmont Ridge Road and the intersection located just east of the stormwater management pond, as shown on Sheet 6 of the CDP, and subject to VDOT approval. The two-lane divided road section with left turn lanes and parking lanes shall be constructed or bonded for construction upon approval of the first record plat or first site plan, whichever is first in time, for any portion of the Property abutting the Sycolin Road right-of-way.

(2) **Ultimate Improvements.** Upon the widening of the Sycolin Road bridge over the Dulles Greenway by others to four lanes, the Applicant shall construct the inner eleven-foot wide travel lane in both directions to create the ultimate four-lane divided road section. The median island shall be reduced to 14 feet in width with the construction of this improvement, with the left turn lanes at the median crossover intersections being taken out of the median island.

(3) **Cash Equivalent Contribution for the Ultimate Improvements.** If the Sycolin Road bridge over the Dulles Greenway is not widened to four lanes by others, the County may request the applicant to provide a cash equivalent contribution any time after the issuance of the 300<sup>th</sup> residential zoning permit for the Property, but in any event, the cash equivalent contribution shall be provided no later than by the time of the issuance of the 450<sup>th</sup> residential zoning permit for the Property. The cash equivalent contribution provided to the County by the Applicant shall cover

the costs of preparing the construction plans and for constructing the road improvements specified in proffer #17.B.1.) a. (2) above. The Applicant shall submit the cost estimates to determine the cash equivalent contribution within thirty days of receipt of the County's written request for the contribution. The Applicant shall provide the cash contribution within thirty days of the County's approval of the cost estimates for the improvements.

b. **Traffic Signals.** The Applicant shall construct the traffic signals at the two proposed major access points with median crossover intersections on Sycolin Road, as shown on Sheet 6 of the CDP, upon VDOT approval of the traffic signal warrant studies. These signals shall include pedestrian signals and crosswalks, if approved by VDOT. The Applicant shall submit the warrant study for the eastern median crossover intersection prior to issuance of the zoning permit for the 250<sup>th</sup> dwelling unit for the Property. The Applicant shall submit the warrant study for the western median crossover intersection prior to the issuance of the zoning permit that results in the cumulative construction of over 100,000 square feet in the office land bay located on the north side of Sycolin Road. If either or both of the traffic signal warrant studies are not approved by VDOT, the Applicant shall submit cash contribution(s) to the County equivalent to the cost of constructing the signal(s), not to exceed \$175,000, for each signal not approved by VDOT. Such cash contribution shall be paid prior to issuance of the zoning permit for the 500<sup>th</sup> dwelling unit for the Property for the traffic signal at the eastern intersection and prior to the issuance of the zoning permit that results in the cumulative construction of over 300,000 square feet on the office land bay on the north side of Sycolin Road for the traffic signal at the western intersection. Such cash contribution(s) shall escalate on an annual

basis based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (CPI), calculated from a base year of January 2005.

c. **Traffic Calming Measures.** At the Applicant's discretion and subject to VDOT approval, the Applicant may install any combination of traffic calming measures along Sycolin Road such as, but not limited to, four-way stop signs at the median crossovers, curb extensions at pedestrian crosswalks, flashing in-pavement pedestrian crosswalk signals, raised crosswalks or intersections, textured pavement, gateway treatments and a posted speed limit of 25 miles per hour.

- C. **Sycolin Road Sidewalk and Trail.** The Applicant shall construct a minimum six-foot wide sidewalk, including street trees and street lights within the Sycolin Road right-of-way, along the Property frontage on both sides of Sycolin Road from the Dulles Greenway right-of-way to Belmont Ridge Road, subject to VDOT approval and as shown on Sheet 6 of the CDP. In addition, the Applicant shall dedicate to the County a ten-foot wide public access easement for, and shall construct, a six-foot wide bicycle trail along the Dulles Greenway right-of-way from Sycolin Road to the Belmont Ridge Road multi-purpose trail, specified in proffer 18.D, and as depicted on Sheet 6 of the CDP. The sidewalk along Sycolin Road shall be constructed or bonded for construction along with the Phase I Sycolin Road improvements described in proffer 17.B.1.) a. (1) above. The bicycle trail along the Dulles Greenway shall be dedicated and constructed or bonded for construction at the time of the first record plat or first site plan approval, whichever occurs first in time, for development of the

portion of the Property bounded by the Dulles Greenway, Belmont Ridge Road and Sycolin Road.

18. **Belmont Ridge Road (Route 659)**

- A. **Right-of-Way Dedication.** Upon request by the County, the Applicant shall dedicate as public right-of-way, at no cost to the County or to VDOT, the land along the Property's frontage on Belmont Ridge Road that is within 60 feet from the existing centerline of the roadway. Additional right-of-way, as required by VDOT, will be provided for right and/or left turn lanes at the Sycolin Road intersection and at the Property's entrance across from Hay Road, and for the right-turn lane and acceleration lane at the right-in/right-out only entrance from Belmont Ridge Road to the PD-CC-CC district. This right-of-way dedication shall be based on construction plans approved by VDOT and Loudoun County for the ultimate section of Belmont Ridge Road. In addition to the dedication, the Applicant will grant all necessary easements relating to road construction and road maintenance for utilities, drainage and grading. These dedications shall be provided at any time upon written request by Loudoun County, or no later than concurrent with the approval of the first record plat or site plan, whichever occurs first, for any portion of the Property abutting Route 659.
- B. **Improvements.** The Applicant shall construct or fund the following road improvements on Route 659. The road improvements specified in this paragraph shall be constructed or bonded for construction upon approval of the first record plat or first site plan, whichever is first in time, abutting the Belmont Ridge Road right-of-way.

- 1.) Construct a four-lane median divided roadway from the Dulles Greenway right-of-way line to a point six-hundred (600) feet north of the Hay Road (Route 642) intersection;
- 2.) North of this point, construct a taper, approximately 300 feet in length, from the constructed four-lane median divided roadway section to the existing two-lane section of Route 659;
- 3.) Provide a cash contribution to the Board of Supervisors, concurrent with bonding of the four-lane median divided road section, in the amount of \$100,000 for the County to fund the construction of the conversion of the approximately 300 foot length of the taper to a four-lane divided road section at a time in the future to be determined by the County;
- 4.) As part of the improvements outlined in subparagraph 1.) above, construct right and/or left turn lanes at the Sycolin Road intersection and at the Property's entrance across from Hay Road, if required by VDOT; construct the southbound right and left turn lanes on Belmont Ridge Road at the Hay Road intersection and the northbound right and left turn lanes at the Hay Road intersection and the underground conduit for the traffic signal at the Hay Road intersection; and construct the acceleration and deceleration lanes for the right-in/right-out only entrance from Belmont Ridge Road to the PD-CC-CC district.

- C. **Belmont Ridge Road and Sycolin Road/Ashburn Farm Parkway Traffic Signal.** The Applicant shall modify the existing traffic signal at the Belmont Ridge Road and Sycolin Road/Ashburn Farm Parkway intersection at the time Belmont Ridge Road is widened to a four-lane divided roadway at this intersection pursuant to proffer 17.B above, to reflect such change.

- D. **Belmont Ridge Road Multi-Purpose Trail.** The Applicant shall dedicate to the County a 14-foot wide public access easement for, and shall construct a ten-foot wide multi-purpose trail on, the Property's frontage along Route 659 (Belmont Ridge Road) in accordance with American Association of State Highway and Transportation Officials ("AASHTO") standards. The trail shall be constructed outside of the proposed right-of-way dedication depicted on the CDP. The easement shall be dedicated and the trail constructed, or bonded for construction, no later than the time at which the County approves the first record plat. The POA, established pursuant to proffer 21, shall maintain the trail.
- E. **Belmont Ridge Road and Hay Road Traffic Signal.** The Applicant shall prepare a traffic signal warrant study for submittal to VDOT for the intersection of Belmont Ridge Road and Hay Road. This study shall be prepared and submitted to VDOT within ninety days of a written request by the County or prior to the issuance of the zoning permit for the 250th dwelling unit on the Property, whichever occurs first in time. If the warrant study authorizes the installation of the traffic signal, the Applicant shall install the traffic signal upon approval by the Board of Supervisors for use of the funds contributed pursuant to the Belmont Ridge proffers for this traffic signal. The Applicant shall pay any balance of the costs for constructing the signal, should the Belmont Ridge funds held by the County not be sufficient to cover the costs for the signal construction or should the funds contributed pursuant to the Belmont Ridge proffers not be made available for the Applicant's use in installing the signal. This signal shall include pedestrian signals and crosswalks, if approved by VDOT.

19. **Cash Equivalent Contribution.** For all proffers in which the Applicant has agreed to construct road improvements, the Applicant shall contribute to the County or its designee an amount equal to the actual cost of constructing such improvements in lieu of actual construction, if such improvements have been constructed or bonded by others prior to bonding for construction by the Applicant. For the purposes of determining the in-lieu-of contribution, construction costs shall be defined as all engineering, surveying, bonding, permit fees, utility relocation, and other actual costs of construction based upon County bonding estimates for such construction as set forth in the Facilities Standards Manual. If the Applicant disagrees with the cost estimate approved for the construction bond, the Applicant shall commence the construction of the proffered improvements within thirty days of the approval of the bond estimate. Such contribution in lieu of actual construction shall occur at the time the Applicant otherwise would have been required by these proffers to bond or construct such improvements. As determined by the County, such contribution shall either be used for reimbursement to the party who constructed such improvements or for regional roadway improvements in the vicinity of and for the benefit of the Property. The Applicant reserves the right to audit the actual construction costs of the improvements made by others prior to providing the cash contribution in lieu of construction.
20. **Bus Shelter and Park and Ride Lot.** The Applicant shall dedicate a public access easement for a bus shelter and a one-acre park and ride lot, as depicted on the CDP. The terms of the public access easement shall permit the Applicant to use the spaces in the park and ride lot, to the extent the spaces are available, after 5 p.m. on weekdays and during all hours on weekends and on local, state or federal holidays. The Applicant shall construct the bus shelter and the parking facility within the public access easement. The public access easement shall be dedicated and the bus shelter and parking facilities constructed or bonded for construction prior to the first record plat or first site plan approval, whichever is first in time, within the portion of the Property bounded by the Dulles Greenway, Belmont Ridge Road and Sycolin Road. A bicycle parking facility holding a minimum of



16 bicycles also shall be provided at the time of construction of the bus shelter and park and ride lot and shall be in the same location as the bus shelter. The POA shall maintain the bus shelter, the park and ride lot and the bicycle parking facility. The Applicant reserves the right to construct a structured parking facility on the site of the park and ride lot, if needed to accommodate future density on the Property, provided that the equivalent number of park and ride spaces in the surface parking lot are made available during the construction of the parking facility and an equivalent number of spaces in the surface parking lot are provided in the structured parking facility.

## **VII. PROPERTY OWNERS ASSOCIATION**

21. **County Review.** Documents to establish a Property Owners' Association (POA), in which all property owners (both residential and non-residential) within the Property will be required to be a member, will be submitted to the County for review and approval as to form and consistency with these proffers prior to first record subdivision plat or first site plan approval, whichever is first in time.
22. **Timing.** The POA will be established prior to approval of the first record subdivision plat.
23. **Duties.** The POA shall have, among its duties, snow removal, trash removal and the maintenance of all private facilities on the Property including private roads and alleys, private storm drainage, stormwater management facilities, common areas, including the open space, trails, greens, and play areas. The POA also shall have the duties set forth in proffers 25 and 30 below.
24. **Garage Conversions.** The POA documents shall include a provision that will prohibit any garage space from being converted to any type of habitable and/or living space or be principally used for other than the storage of vehicles.

## VIII. ENVIRONMENTAL

25. **Storm Drains.** All storm drainage inlet structures on the Property shall be marked, "No Dumping," subject to approval by Loudoun County and/or VDOT. The Property Owners' Association documents shall require the POA to maintain such markings.
26. **Low Impact Design.** Development of the Property shall incorporate low impact design and Best Management Practices ("BMP") techniques to filter on-site run-off and protect the water quality of Goose Creek. The low impact design and best management practices will include the appropriate, site specific water quality control techniques as recommended in the latest edition of the Virginia Stormwater Management Handbook, the Loudoun County Facilities Standards Manual ("FSM"), and the LCSA's Goose Creek Source Water Protection Guidelines. The Applicant shall incorporate multiple low impact design measures within the project. Measures used to protect the open space area adjacent to Goose Creek may include: grass swales, small berms located within the existing forested area, extended detention or retention basins and super silt fencing to protect the non-disturbed areas. Measures to be incorporated into the developed portions of the Property may include: bio-retention/rain gardens, infiltration trenches, vegetative filter strips and filterra systems. At the time of submission of the first set of construction plans and profiles for the Property, the Applicant shall submit, for review and approval by LCSA and the County, a conceptual water quality analysis for the Property which incorporates the water quality control and BMP measures to be used on the Property. BMPs used may include constructed wetlands and should minimize the piping of stormwater. Use of these methods is subject to the County granting FSM waivers, if necessary.
27. **Storm Drainage Pipes.** Any and all storm drainage pipes constructed on the Property that discharge to a buffer, stream, or the Open Space Area along Goose Creek on the Property shall be constructed with energy dissipation devices, level

spreaders, constructed wetlands or appropriate diversion structures, as permitted by the FSM, in order to minimize the impact of small storms on the streams and existing wetlands.

28. **Stormwater Management Ponds.** The stormwater management pond to be constructed in the PD-OP open space area, as shown on Sheet 5 of the CDP, shall include a wet pond, or dry pond with constructed wetland areas. The stormwater management pond to be constructed in the R-24 district, as shown on Sheet 5 of the CDP, shall be a wet pond.
29. **Native Plant Materials.** No less than 80% native plant materials shall be used for constructed wetland areas that are used for BMPs or stormwater management and for any new landscaping provided in common open space areas on the Property, excluding the open lawn areas of the community greens.
30. **Pesticides.** In addition to the implementation of low impact design and BMPs as described above, covenants in POA documents shall restrict the use of pesticides, herbicides and fertilizers to those materials which have rapid decomposition characteristics and are labeled safe for aquatic use.
31. **Open Space Area Along Goose Creek.** Any disturbances permitted within the Open Space Area Along Goose Creek shall be designed to minimize the area of disturbance, retain existing vegetation to the extent possible, and shall be designed and constructed in a manner to protect water quality in accordance with the standards contained in the FSM and the low impact design and BMP practices proffered herein.

## IX. MISCELLANEOUS

32. **Belmont Ridge Homeowners Associations Landscaping Contributions.** The Applicant shall make a contribution to both of the Belmont Ridge Homeowners

Associations in the amount of \$12,500 each to the Belmont Ridge Homeowners Association and the Belmont Ridge II Homeowners Association, respectively, with the stipulation that the funds may be used for the sole purpose of installing landscaping on HOA owned property along the east side of Belmont Ridge Road to complement the landscaping being installed by the Applicant along the west side of Belmont Ridge Road. These contributions, along with copies of the approved landscape plan, shall be provided to the respective HOA's within thirty (30) days of the County approval of the Applicant's landscape plan for the landscaping along the western side of Belmont Ridge Road. The Applicant also shall provide the County a written copy of the transmittal to the respective HOA's for the contribution and the approved landscape plan for the landscaping along the western side of Belmont Ridge Road. These contributions shall escalate on an annual basis, based on the Consumer Price Index as published by the Bureau of Labor Statistics, U.S. Department of Labor, for the Washington-Baltimore, MD-VA-DC-WV Consolidated Metropolitan Statistical Area (CPI), calculated from a base year of January 2005.

33. **Land Bay Subdivision.** For purposes of these proffers, any subdivision application approval by the County for the Property resulting in the creation of a maximum of three parcels of land, with no parcel being less than fifteen (15) acres in size and that is in substantial conformance with the Land Bay Subdivision Plan shown on Sheet 12 of the CDP, shall not constitute a first record plat approval as that term is used throughout these proffers. Any subsequent subdivision of any of these three parcels shall constitute record plat approval as that term is used throughout these proffers.

#### **X. BINDING EFFECT**

34. The Applicant hereby warrants that all the owners of a legal interest in the Property have signed this proffer statement, that these owners have full authority to bind the Property to these proffers, either individually or jointly, and that these proffers are entered into voluntarily.

JUL 15 2005



WALSH COLUCCI  
LUBELEY EMRICH  
& TERPAK PC

Christine Gleckner, AICP  
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July 13, 2005

**Via Hand Delivery**

The Honorable Scott K. York, Chairman  
Loudoun County Board of Supervisors  
Loudoun County Government Center  
1 Harrison Street, S.E., 5th Floor  
Leesburg, VA 20177

Re: ZMAP 2003-0008, Goose Creek Village  
Letter of Clarification Regarding Proffer Statement dated June 3, 2005

Dear Chairman York:

This letter will serve to clarify the Proffer Statement dated June 3, 2005 for ZMAP 2003-0008, Goose Creek Village, by clarifying proffers 1, 3, and 18.B.3) and by addressing a concern regarding further residential rezoning of the Property raised by the Board of Supervisors at the June 16, 2005 public hearing. Only the proffers specifically-referenced below are being clarified; all other proffers contained in the Proffer Statement dated June 3, 2005 remain valid and unchanged.

To assist in the review of this Letter of Clarification, text changes from the June 3, 2005 Proffer Statement are shown in a **bold** (new text) and ~~strike-out~~ (deleted text) formats. The Applicant hereby makes the following clarifications to the Proffers, which are revised to read as follows:

1. **Concept Development Plan.** The Property shall be developed in substantial conformance with the Concept Development Plan entitled, "Goose Creek Village Rezoning/Special Exception Application," Sheets 1, 4, 5, 6, and 12 dated May 22, 2003, revised through **July 8, 2005** ~~June 3, 2005~~, prepared by christopher consultants, ltd. (hereinafter, the "CDP"), which is incorporated herein by reference as Exhibit A. The CDP shall control the general development layout and configuration of the Property. All office buildings located in the land bay on the north side of Sycolin Road, and **all office buildings adjacent to the Dulles**

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Greenway in the portion of the land bay located on the south side of Sycolin Road along the Dulles Greenway, in the locations depicted on Sheet 5 of the CDP, shall be a minimum of three stories high.

3. **Linkage of Residential and Commercial Elements.** In order to ensure that the Applicant's mixed use development on the Property remains fiscally positive at all times during build-out and achieves a qualitative appearance of a mixed use community, the Applicant shall not be permitted to obtain zoning permits for more than 300 residential dwelling units on the Property unless and until zoning permits have been issued for an office, retail, or office/retail commercial development on the Property comprising a minimum of 70,000 square feet of such uses in either the PD-OP or PD-CC-CC zoned portions of the Property, excluding any civic uses. A minimum of 20,000 square feet of the 70,000 square feet of commercial development shall be office use.

18. **Belmont Ridge Road (Route 659)**

B. **Improvements.**

- 3.) Provide a cash contribution to the Board of Supervisors, concurrent with bonding of the four-lane median divided road section, ~~in~~ at a minimum the amount of \$200,000 ~~\$100,000~~ for the County to fund the construction of the conversion of the approximately 300 foot length of the taper to a four-lane divided road section at a time in the future to be determined by the County; In addition, the Applicant shall prepare construction plans and profiles for the four-lane divided road section for the approximately 300 foot length of roadway concurrent with the construction plans and profiles for the Route 659 improvements the Applicant is constructing and shall contribute any additional cash contribution above \$200,000, based on the County approved bond estimate for the construction of the additional approximately 300 foot length of roadway.

**34. Further Residential Rezoning Prohibited.** Given that the Property is planned for Business use, and, as allowed under the Business use policies in the Revised General Plan incorporates a residential component in the form of the proposed R-16 and R-24 zoned portions of the Property, the Applicant shall not seek a further rezoning of the Property to expand these residential zoning districts into the portions of the Property proposed to be zoned PD-OP, PD-IP or PD-CC,

**35**34. The Applicant hereby warrants that all the owners of a legal interest in the Property have signed this proffer statement, that these owners have full authority to bind the Property to these proffers, either individually or jointly, and that these proffers are entered into voluntarily.

The undersigned hereby warrant that all owners with a legal interest in the property that is the subject of ZMAP 2003-0008 (the "Property") have signed this Letter of Clarification, that all signatories have full authority to bind the Property to these conditions, and that this Letter of Clarification is entered into voluntarily.

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